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Reginald Lyall Reid

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EXAMINER

OLSZEWSKI, JOHN

ART UNIT

PAPER NUMBER

3618

MAIL DATE

DELIVERY MODE

10/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/507,488	Applicant(s) REID, REGINALD LYALL	
	Examiner JOHN R. OLSZEWSKI	Art Unit 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18, 20-53, 60 and 61 is/are pending in the application.
- 4a) Of the above claim(s) 38, 47 and 48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18, 20-37, 39-46, 49-53, and 60-61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. **Claim 33 is objected to because of the following informalities:** applicant writes “an ankle” which should be written as “his or her ankle” or “their ankle”.
Appropriate correction is required.
2. **Claim 11 and 12 are objected to because of the following informalities:**
applicant writes “minimising” which appears to be a simple misspelling of “minimizing”.
Appropriate correction is required.
3. **Claim 12 is objected to because of the following informalities:** applicant writes “manoeuvrability” which appears to be a simple misspelling of “maneuverability”.
Appropriate correction is required.
4. **Claim 12 is objected to because of the following informalities:** applicant writes “...gripping means any one of a list including” which is confusing and needs to be reworded to be more clear and concise. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. **Claims 1 and 49 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.** Specifically, the language added to the claims defining the motion-facilitating means having an “increased” circumferential width adapted to “increase” both the wheelbase and the contact surface is indefinite, because the increase in these sizes has no basis of comparison.

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6. **Claim 36 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.** Specifically, the language “larger” and “wider” is indefinite because there is nothing present for comparison in the claims.

7. **Claim 37 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.** In claim 37 applicant states that the dimensions of the foot supporting member are variable in relation to the width of the foot supporting member. The width is a dimension; it does not make sense for something to be variable relative to itself.

8. **Claim 42 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.** Specifically, the language “via attachment means, including pins, nuts and bolts, screws” this language is confusing and difficult to discern, it would appear to be better written as something along the lines: “via attachment means, wherein the attachment means are one of pins, screws, and nuts and bolts”.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. **Claims 1-6, 14-36, 40-43, 45-46, and 49-52 are rejected under 35 U.S.C. 102(b) as being anticipated by Hosoda (US 5,975,229).**

With regards to claim 1, Hosoda discloses:

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- At least one foot supporting member (Figure 1, Items 10a and 10b)
- The foot supporting member including, or including provision for attachment of, at least two axle assemblies (Figure 1, Items 4 and 5)
- Said axle assemblies adapted to receive rotational motion-facilitating means (Figure 1, Items 2a, 2b, 3a, and 3b)
- The personal conveyance characterized by the motion-facilitating means being positioned relative to the foot supporting member such that at least a portion of the motion-facilitating means extends in a vertical plane above and perpendicular to the horizontal plane of the foot supporting member in a manner whereby stability is effected of either or both the personal conveyance and a person standing thereon (Figure 4)
- Each motion-facilitating means including increased circumferential surface width adapted to increase the wheelbase of the motion-facilitating means and the contact between the wheels and the surface on which the conveyance is being used (Figure 1, Items 2a, 2b, 3a, and 3b)

With regards to claim 2, Hosoda discloses:

- The personal conveyance is adapted to include steering means (Column 7, Lines 9-51)

With regards to claim 3, Hosoda discloses:

- The personal conveyance is also adapted to include optional braking means (Columns 6-7, Lines 61-6)

With regards to claim 4, Hosoda discloses:

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- Wherein stability of either or both the conveyance and a person standing thereon is further effected by at least one of :
 - The dimensions of the motion-facilitating means
 - The dimensions of the foot supporting member;
 - The location of the axle assemblies relative to the length of the foot supporting member;
 - The position of either or both the axle assemblies and the foot supporting member relative to the motion-facilitating means effecting a change in the center of gravity of the personal conveyance

The above limitations are inherent to the design of Hosoda's invention.

Since Hosoda discloses all of the elements of the claims thus far the stability is inherently affected by all of the above listed elements due to their interaction with one another.

With regards to claim 5, Hosoda discloses:

- Wherein stability of either or both the conveyance and a person standing thereon is further effected by at least one of:
 - Operation of the steering means
 - Operation of the breaking means

The above limitations are inherent to the design of Hosoda's invention.

Since Hosoda discloses all of the elements of the claims thus far the stability is inherently affected by all of the above listed elements due to their interaction with one another.

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With regards to claim 6, Hosoda discloses:

- Wherein the foot supporting member is dimensioned to be substantially rectangular being adapted to maintain a foot or shoe in position thereon and includes a front leading edge and a rear trailing end (Figure 1, Items 4 and 5)

With regards to claim 14, Hosoda discloses:

- A first axle assembly, of the at least two axle assemblies, is located towards the front leading end of the foot supporting member (Figure 3, Item 5)
- At least one other axle assembly, of the at least two axle assemblies, is located towards the rear trailing end of the foot supporting member (Figure 3, Item 4)

With regards to claim 15, Hosoda discloses:

- Each axle assembly comprises at least one shaft located transverse of the foot supporting member and capable of independently supporting motion-facilitating means at the outer distal end(s) of the shaft (Figure 3, Items 4, 5, and 2a and 3a)

With regards to claim 16, Hosoda discloses:

- The shaft of each axle assembly is configured to be any one of:
 - A substantially straight elongated shaft (Figure 3, Items 4 and 5)
 - A substantially elongated shaft having stepped portions at at least each outer distal end
 - At least two shorter independent shafts each one being located towards opposite side edges of the foot supporting member
 - Attachable along at least a portion of its length to at least one of the foot supporting member and the steering means

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- Integral along at least a portion of its length with at least one of the foot supporting member and the steering means

With regards to claim 17, Hosoda discloses:

- The shaft of each axle assembly are:
 - Independent of each other (Figure 3, Items 4 and 5)
 - Pivotally mounted towards at least the front leading end of the foot supporting member to enable directional movement to be achieved (Figure 3, Item 20b)

With regards to claim 18, Hosoda discloses:

- A combination of axle assembly arrangements may be employed dependent upon:
 - The size, number and location of the motion-facilitating means
 - The proposed use of the conveyance including recreational, extreme sport, speed, skills
 - The terrain over which the personal conveyance is designed to travel

It would be inherent to a device which has an intended design, for it to be built to cater to the needs and requirements of the activity and environment in which it is to be used, therefore all the above would be inherent characteristics to be imparted on a device in order to alter its basic design

With regards to claim 20, Hosoda discloses:

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- The motion-facilitating means, when attached to the distal end of an axle of one of the at least two axle assemblies, extends laterally of the foot supporting member (Figure 3, Items 2a, 3a, 4, and 5)

With regards to claim 21, Hosoda discloses:

- At least a portion of the motion-facilitating means, when attached to the distal end of the axles, extends in the vertical plane above and perpendicular to the horizontal plane of the upper surface of the foot supporting member (Figure 4)

With regards to claim 22, Hosoda discloses:

- The motion-facilitating means is attached to the distal ends of the axles such that the center of rotation of the motion-facilitating means is substantially positioned at any one of:
 - Below the lower surface of the foot supporting member
 - In line with the horizontal plane of the foot supporting member
 - Above the upper surface of the foot supporting member (Figure 4)

With regards to claim 23, Hosoda discloses:

- The position of the motion-facilitating means relative to the axle and the foot supporting member determines variations in the center of gravity of the personal conveyance as determined for effecting degrees of stability depending on the configuration of the personal conveyance and the use for which it is designed

The above limitations are inherent to the design of an invention. Since Hosoda discloses all of the elements of the claims thus far the degree of stability

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is inherently affected by all of the above listed elements due to their interaction with one another.

With regards to claim 24, Hosoda discloses:

- The center of gravity is lowered to effect a preferred stability

The above limitations are inherent to the design of the invention. Since Hosoda discloses all of the elements of the claims thus far the degree of stability is inherently affected by lowering the center of gravity.

With regards to claim 25, Hosoda discloses:

- The motion-facilitating means is one of the group consisting of: wheels, rotating tracks, rollers (Figure 3, Items 2a and 3a)

With regards to claim 26, Hosoda discloses:

- The motion-facilitating means are configured to include any of an inflatable portion, substantially solid portion, varying spoke arrangements, bearings for a smoother ride and improved motion-facilitating means performance (Figure 3, Items 2a and 3a)

With regards to claim 27, Hosoda discloses:

- The motion-facilitating means are configured to have at least one of a radius of up to or greater than twice the distance between the underside of the foot supporting member and the surface on which the personal conveyance is standing and a wide circumferential surface contactable with the surface (Figure 4, Items 2a and 3a)

With regards to claim 28, Hosoda discloses:

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- The motion-facilitating means are configured to have a radius of up to or greater than twice the distance between the underside of the foot supporting member and the surface on which the personal conveyance is standing, to ensure at least a portion of the motion-facilitating means extends in a vertical plane above and perpendicular to the foot supporting member in a manner whereby at least one of stationary and mobile stability is effected of the personal conveyance and/or a person standing thereon (Figure 4, Items 2a and 3a)

With regards to claim 29, Hosoda discloses:

- The motion-facilitating means are configured to have a wide circumferential surface, to effect greater surface area contact between the circumferential surface of the motion-facilitating means and the surface on which the personal conveyance is standing (Figure 3, Items 2a and 3a)

With regards to claim 30, Hosoda discloses:

- The motion-facilitating means are configured to either or both complement the type of ground over which the conveyance will be used and be designed to effect the speeds the conveyance may be required to attain

This is inherent in the invention of Hosoda; the motion-facilitating means are chosen to complement the type of ground over which the conveyance will be used in addition to affecting the speeds the conveyance may attain.

With regards to claim 31, Hosoda discloses:

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- There is at least one motion-facilitating means on either side of the rear trailing end and of the front leading end of the of the foot supporting member (Figure 3, Items 2a, 2b, 3a, and 3b)

With regards to claim 32, Hosoda discloses:

- Tandem motion-facilitating means are included in relation to at least one of the front and rear ends of the foot supporting member (Figure 1, Items 3a and 2a, illustrated as being in tandem)

With regards to claim 33, Hosoda discloses:

- Having larger diameter motion-facilitating means configured to extend in a vertical plane above and perpendicular to the foot supporting member serves as additional support and protection for the users' ankles and/or minimizes the likelihood of the conveyance tipping over on to its side thereby making it less likely that the user may twist an ankle

This is inherent to the design of Hosoda's invention. By placing the center of gravity of the device lower to the ground the chance of the conveyance tipping is lowered, inherently.

With regards to claim 34, Hosoda discloses:

- Having larger diameter motion-facilitating means tends to lower the rolling resistance experienced with smaller diameter motion-facilitating means and as such enables speed to be achieved for much less effort

This is inherent to the design of Hosoda's invention. And in general this is inherent to the design of wheels in general.

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With regards to claim 35, Hosoda discloses:

- When the center of gravity is lowered, less rolling resistance is encountered by each motion-facilitating means because the position of the central axis of rotation of each motion-facilitating means is such that the position of the center of rotation of the motion-facilitating means relative to the foot supporting member is raised

In as much as applicant's device achieves this so does the invention of Hosoda.

With regards to claim 36, Hosoda discloses:

- Less rolling resistance combined with larger diameter and potentially wider motion-facilitating means enables the personal conveyance to be used more effectively on uneven ground, grassed surfaces, and graveled surfaces

In as much as applicant's device achieves this so does the invention of Hosoda, because this is inherent.

With regards to claim 40, Hosoda discloses:

- The steering means includes pivoting means and resilience means (Figure 3; Column 4, Lines 33-44)

With regards to claim 41, Hosoda discloses:

- The pivoting means is centrally positioned in relation to at least axle means located towards the front leading end of the foot supporting member (Figure 3, Item 20b)

With regards to claim 42, Hosoda discloses:

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- At least a portion of the pivoting means is integrally molded with the axle means and is attachable to the foot supporting member via attachment means, from a group consisting of: pins, nut and bolts, and screws (Figures 5 and 6; Column 4, Lines 34-67)

With regards to claim 43, Hosoda discloses:

- The resilience means includes at least one pair of compressible springs positioned along the axle shaft at least one of the front leading end and the rear trailing end of the foot supporting member (Figure 5, Items 21a and 21b)

With regards to claim 45, Hosoda discloses:

- The steering means is operable to effect steering via the user shifting body weight and effecting compression of at least one front and/or one rear spring to effect pivoting of the pivoting means and the axle means resulting in turning of the motion facilitating means and a directional change of the personal conveyance (Figure 1)

With regards to claim 46, Hosoda discloses:

- The personal conveyance is operable as:
 - A pair, in the same manner as skates
 - As a single unit, in a similar manner to a skate board
 - As a single unit, in a similar manner as a scooter

The invention of Hosoda could be clearly used as both a skateboard and scooter, but could be used in the same manner as skates, if one was to employ the use of two of the inventions found in Hosoda simultaneously.

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***Method claims 49-52** are also rejected under this rejection since all of the structure has been found to have been disclosed in the prior art of record, therefore the structure used to reject the apparatus claims can be made by the method as claimed.*

10. Claims 1 and 60-61 rejected under 35 U.S.C. 102(b) as being anticipated by Buss (US 3,953,041).

[claim 1] A personal conveyance for recreational use, the conveyance including: a foot supporting member (Figure 1, Items 11 and 12), the foot supporting member including, or including provision for attachment of, at least two axle assemblies (Figure 2, Items 20 and 39), said axle assemblies adapted to receive rotational motion-facilitating means (23), the personal conveyance characterized by the motion-facilitating means being positioned relative to the foot supporting member such that at least a portion of the motion-facilitating means extends in a vertical plane above and perpendicular to the horizontal plane of the foot supporting member (Figure 1) and said each motion-facilitating means including an increased circumferential surface width adapted to increase both the wheelbase of the motion-facilitating means and the contact between the wheels and the surface on which the conveyance is being used in a manner whereby stability is effected of either or both the personal conveyance and a person standing thereon; **[claim 60]** wherein the at least two axle assemblies attach directly to the foot supporting member (Figures 1 and 2); **[claim 61]** wherein a distance between the at least two axle assemblies is less than the foot supporting member's length (Figures 1 and 2).

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. Claims 7-13 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hosoda (US 5,975,229) in view of Wyndham (US 1,768,228).

With regards to claim 7, Hosoda lacks, but Wyndham teaches:

- The dimensions of the foot supporting member are adjustable via adjustment means (Figures 1 and 2, Items 9, 10, and 11)

It would have been obvious to one having ordinary skill in the art at the time the invention was made to take the teachings of Wyndham and incorporate them into the invention of Hosoda in order to provide a foot supporting member that can be used to fit multiple users with different foot sizes.

With regards to claim 8, Hosoda lacks, but Wyndham teaches:

- The adjustment means to adjust the dimensions of the foot supporting member includes provision to extend the length of the foot supporting member by

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longitudinal movement of portions of the foot supporting member via at least one of a screw system, a ratchet system, a sliding system each of which is securable following the adjustment (Figures 1 and 2, Items 9, 10, and 11)

It would have been obvious to one having ordinary skill in the art at the time the invention was made to take the teachings of Wyndham and incorporate them into the invention of Hosoda in order to provide a foot supporting member that can be used to fit multiple users with different foot sizes.

With regards to claim 9, Hosoda lacks, but Wyndham teaches:

- The dimensions of the foot supporting member are adjustable to accommodate variations in a size of at least one of a user's feet, shoes, and custom-made footwear of varying sizes specifically manufactured for use with the personal conveyance (Figures 1 and 2, Items 9, 10, and 11)

It would have been obvious to one having ordinary skill in the art at the time the invention was made to take the teachings of Wyndham and incorporate them into the invention of Hosoda in order to provide a foot supporting member that can be used to fit multiple users with different foot sizes.

With regards to claim 10, Hosoda discloses:

- The foot supporting member is also adapted to include gripping means (Figure 2, Item 12)

With regards to claim 11, Hosoda discloses:

- The gripping means effects at least one of:

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- Minimizing longitudinal and/or lateral movement of the users' foot or shoe (Figure 2, Items 10a, 10b, and 12)
- Gripping a custom-made manufactured shoe specifically included on or attachable to the foot supporting member
- Re-positioning of the user's foot or shoe;
- Ensuring a correct fit for the user's foot or shoe size and shape
- on the foot supporting member (Figure 2)

With regards to claim 12, Hosoda discloses:

- The gripping means further effects at least one of:
 - Improved maneuverability of the conveyance
 - The ability to initiate and maintain preferred operation of the conveyance
 - The safety for the user by minimizing the likelihood of the foot/shoe becoming loose from the conveyance,
 - Minimizing the likelihood of injury, particularly to the user's ankles

The above limitations are inherent to the design of Hosoda's invention.

Since Hosoda discloses all of the elements of the gripping means they inherently have the affects described above in this claim.

With regards to claim 13, Hosoda discloses:

- The gripping means includes one of the following:
 - A fixing apparatus from a group consisting of: straps, screws, buckles, hook and pile systems, press studs, ties, bolts, with or without safety release systems (Figure 2, Items 10a, 10b, and 12)

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- Configured portions of a gripping nature including portions on the surface of the foot supporting member to receive and hold a foot or shoe in place on the foot supporting member, or improve traction of the surface of the foot supporting member, with or without safety release systems (Figure 1, Items 10a, 10b, 11, and 12)
 - whether the shoe is attached permanently or temporarily to the foot supporting member

With regards to claim 37, Hosoda lacks, but Wyndham teaches:

- The dimensions of the foot supporting member are variable in relation to the width of the foot supporting member (Figures 1 and 2, Items 9, 10, and 11)

It would have been obvious to one having ordinary skill in the art at the time the invention was made to take the teachings of Wyndham and incorporate them into the invention of Hosoda in order to provide a foot supporting member that can be used to fit multiple users with different foot sizes.

12. Claims 39 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hosoda (US 5,975,229) in view of Gay (US 5,522,609).

With regards to claim 39, Hosoda lacks, but Gay teaches:

- The optional braking means includes a stop which is deployed against the ground surface by tipping the rear or front end of the foot supporting member downwards (Figure 7, Item 106)

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to take the teachings of Gay and incorporate

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them into the invention of Hosoda in order to provide a less complicated and more maintenance free, as well as less costly braking device.

Method claim 53 is also rejected under this rejection since all of the structure has been found to have been disclosed and taught in the prior art of record, therefore the structure used to reject the apparatus claims can be made by the method as claimed.

13. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hosoda (US 5,975,229).

With regards to claim 44, Hosoda discloses:

- The springs at the front leading end of the foot supporting member are lighter than the springs at the rear trailing end of the foot supporting member (Figure 5, Items 21a and 21b)

It would have been obvious to one having ordinary skill in the art to take the teaching of a dual coil spring suspension that is being used in the rear of Hosoda's invention and implement the use of the same type of suspension and adapt it to be used in the front of the invention of Hosoda. In doing so it would be desirable to one of ordinary skill in the art to vary the spring constants between the front and the rear to alter the accelerating, decelerating and turning characteristics of the invention to perform better in specific intended environments. In varying the spring constants and maintaining the spring heights being consistent conventionally one set of springs becomes heavier than another set of springs.

Response to Arguments

14. Applicant's arguments filed on the 21st of August, 2008 have been fully considered but they are not persuasive.

With regards to applicant's arguments that the amendments to claims 1 and 49 overcome the Hosoda reference, this is not the case because applicant's amendment to the claim is indefinite, for the reasons explained above in the beginning portion of this action. With regards to applicant's arguments that Hosoda is not suitable for use on uneven ground, grass surfaces, etc., the claims make no such claims that the device must be capable of traversing these types of grounds, so applicant's arguments are narrower than the claim language. Additionally, the device of Hosoda is capable of riding over the listed surfaces, which is all that is required, the degree to which the device is capable of doing it is not patentable or novel.

With regards to applicant's arguments concerning shafts 4 and 5 of Hosoda and their connection to the foot supporting members, examiner points out that Hosoda does provide provision for attachment, through members 6 (including 6a, 6b, and 6c) and 20a and 20b, through these members the axle assemblies are connected to the foot supporting member. Clearly the footboards are in attachment with the axle assemblies through these members.

With regards to applicant's arguments that the axles are not pivotally mounted "towards" at least the front leading end of the foot supporting member. Examiner refers to the counterargument provided above in the previous paragraph.

With regards to applicant's arguments against the Wyndham reference, examiner used the Wyndham reference to teach an adjustable foot supporting member for adjusting to the size of a user's foot, not for it's three wheel structure.

With regards to applicant's arguments against the Gay reference was used to teach the brake mechanism into the Hosoda reference.

With regards to applicant's arguments against the rejection of claim 44, examiner points out that applicant has not provided any specific arguments regarding the springs, which are the major structural feature of claim 44, if applicant is simply stating that because of the amendments to the independent claims that these claims are allowable because of such, examiner redirects applicant to the examiner's response to these amendments above.

Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN R. OLSZEWSKI whose telephone number is (571)272-2706. The examiner can normally be reached on M-Th 5:30AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on 571-272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher P Ellis/

Supervisory Patent Examiner, Art Unit 3618